

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

v.

ELK GROVE UNIFIED SCHOOL  
DISTRICT,

OAH Case No. 2014020468

ELK GROVE UNIFIED SCHOOL  
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH Case No. 2014070203

ORDER FOLLOWING PREHEARING  
CONFERENCE; GRANTING REQUEST  
TO CONTINUE THE PREHEARING  
CONFERENCE; AND SETTING  
PREHEARING CONFERENCE DATE

On October 20, 2014, a telephonic prehearing conference was held before Administrative Law Judge (ALJ) Adeniyi Ayoade, Office of Administrative Hearings (OAH). Daniel Shaw, Attorney at Law, appeared on behalf of Student. Cathy Holmes, Attorney at Law, appeared on behalf of Elk Grove. The PHC was recorded. Based on discussion of the parties, the ALJ issues the following order:

1. Motion to Continue Prehearing Conference Date. On October 20, 2014, OAH received from the parties a joint written request to continue the prehearing conference on the ground that the parties are close to resolving the cases, and that additional time is needed in order to finalize a written settlement agreement. During the prehearing conference, both parties confirmed that settlement is imminent in the consolidated matters, and that a final written settlement agreement would be executed on or before October 22, 2014. Accordingly, the parties requested that the prehearing conference be continued to allow the parties time to finalize their settlement, without expending additional resources unnecessarily.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs.,

tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request to continue the prehearing conference date for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. The prehearing conference date is continued and reset as follows:

**Prehearing Conference: October 24, 2014, at 10:00 AM**

**The due process hearing dates are unchanged, and are hereby confirmed.**

2. Timely Disclosure of Witnesses/Exhibits. Education Code section 56505, subdivision (e)(7), provides for disclosure of witnesses and exhibits "at least" five business days prior to the hearing. The parties are to comply with Education Code section 56505, subdivision (e)(7).

3. Other Matters: All other matters relevant to preparing for the hearing, including clarification of issues and identification of witnesses and exhibits, will be addressed at the PHC on October 24, 2014. Unless modified by this order, all other orders contained in the OAH's Scheduling Order dated July 7, 2014 shall remain in effect.

4. Settlement: Dates for hearing will not be cancelled until a letter of withdrawal, or a request for dismissal and the signature page of the signed agreement has been received by OAH. If an agreement in principle is reached, the parties should plan to attend the scheduled hearing unless different arrangements have been agreed upon by the assigned ALJ. IF A FULL AND FINAL WRITTEN SETTLEMENT AGREEMENT IS REACHED AFTER 5:00 P.M. THE DAY BEFORE THE HEARING, THE PARTIES SHALL LEAVE A VOICEMAIL MESSAGE REGARDING THE SETTLEMENT AT (916) 274-6035. THE PARTIES SHOULD ALSO LEAVE CONTACT INFORMATION SUCH AS CELLULAR PHONE NUMBERS OF EACH PARTY OR COUNSEL FOR EACH PARTY. THE PARTIES SHOULD SIMULTANEOUSLY FAX THE

SIGNATURE PAGE OF THE SIGNED AGREEMENT OR A LETTER WITHDRAWING  
THE CASE TO THE OAH AT THE FAXINATION LINE AT 916-376-6319.

IT IS SO ORDERED.

DATE: October 20, 2014

/s/

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ADENIYI AYOADE  
Administrative Law Judge  
Office of Administrative Hearings